REMARKS

Prior to entry of this paper, Claims 1-22, 26-42, 47, 48, and 52-73 were pending. Claims 1-22, 26-42, 47, 48, and 52-73 were rejected. In this paper, Claim 64 is amended to correct a clerical error in Claim 64. This is a cosmetic amendment that does not narrow the scope of Claim 64. Claims 1-22, 26-42, 47, 48, and 52-73 are currently pending. In this paper, whenever language is quoted from a claim that has been amended with regard to the portion of the claim quoted, the quoted claim language is that of the claim as amended. No new matter is added by way of this amendment. For at least the following reasons, Applicants respectfully submit that each of the presently pending claims is in condition for allowance.

Claims 64-68

Claims 64-68 were rejected under 35 U.S.C. §101 as claimed invention being directed to non-statutory subject matter. The rejection is respectfully traversed.

The Office argues that Claim 64 recites a processor readable medium, which could include a transitory signal bearing medium, and that therefore Claims 64-68 are not statutory.

However, it is respectfully submitted that this is irrelevant, because Claim 64 recites "A manufacture" and is limited to a manufacture as statutorily defined. For example, suppose that a hypothetical claim recited "A mammal, wherein the mammal is a four-legged animal". This hypothetical claim does not read on an iguana, because an iguana is not a mammal. All the evidence in the world in favor of the position that an iguana is a four-legged animal is irrelevant, because an iguana is not a mammal. An iguana is a four-legged animal, but it is not a mammal, so the recitation, "A mammal, wherein the mammal is a four-legged animal" does not read on an iguana.

Similarly, Claim 64 recites, "A manufacture including a processor-readable medium". The claim is statutory because it recites "A manufacture", which is one of the four statutory categories, and the claim accordingly limits its scope to falling within the definition of the statutory category of a manufacture. Whether the term "processor-readable medium" includes something non-statutory is irrelevant, since Claim 64 recites "A manufacture including a processor-readable medium" rather

than just "a processor-readable medium". Assuming arguendo that a manufacture does not include mere transitory signals and a processor-readable medium could include mere transitory signals, a manufacture including a processor-readable medium does not include mere transitory signals. This is just the same as the argument above regarding, "A mammal, wherein the mammal is a four-legged animal" does not read on an iguana—even though an iguana is a four-legged animal. Similarly, "A manufacture including a processor-readable medium" does not read on non-statutory signals—even if it could be proved that "processor-readable medium" could be interpreted to read on non-statutory signals, this is irrelevant given that non-statutory signals are not a manufacture.

For at least these reasons, it is respectfully submitted that the rejections to Claims 64-68 under 35 U.S.C. § 101 should be withdrawn, and notice to that effect is earnestly solicited.

Claim 32

Claim 32 was rejected on the ground of a provisional nonstatutory obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. 11/469,843. The rejection is respectfully traversed.

It is respectfully submitted that the rejection to Claim 32 should be withdrawn at least because Claim 1 of U.S. Patent No. 11/469.843 fails to teach "the forwarding means determines the traffic manager based in part on a connection key", as recited in Claim 32.

For at least these reasons, it is respectfully submitted that the rejections to Claim 32 on the ground of obviousness-type double patenting should be withdrawn, and notice to that effect is earnestly solicited.

Rejections to Claims 1-11, 12-16, 17-22, 26-31, 32, 47-48, 52-59, and 60-73 under 35 U.S.C. § 103

Claims 1-11, 12-16, 17-22, 26-31, 32, 47-48, 52-56, and 60-73 were rejected under 35 U.S.C. §103(a) as being unpatentable over Albert et al (U.S. Patent No. 6,742,045) hereafter "Albert", in view of Datta et al (U.S. Patent No. 6,493,341) hereafter "Datta". Claims 57-59 were

rejected under 35 U.S.C. §103(a) as being unpatentable over Albert et al (U.S. Patent No. 6,742,045), in view of Datta et al (U.S. Patent No. 6,493,341), and further in view of Hong et al (U.S. Publication No. 2002/0062372). Each of these rejections is respectfully traversed.

Independent Claim 1 is respectfully submitted to be allowable at least because the combination of Albert and Data fails to teach or suggest "if each received packet in the flow of packets is unassociated with the traffic manager, performing actions, including: (A) selecting another traffic manager; and (B) associating the other traffic manager with the flow of packets, wherein each received packet in the flow of packets is forwarded to the other traffic manager", as recited in Applicants' Claim 1.

If Albert and Datta were combined, the re-routing would be separate—Albert would be used for traffic management within a network service environment, and Datta would be used for routing outside of the network service environment when connected with a WAN. The associations of a packet with a traffic management done as discussed in Albert would not involve the routing to another router if the fixed affinity did not apply—these would be separate events occurring at entirely different points in the network.

In Datta, a load-balancing determination is made as to which router 110 or a group of routers 110 to route to from the originating LAN to outside of the originating LAN. In the combination of Albert and Datta, in the load-balancing determination as to which router or group of routers to route to from the originating LAN to outside of the originating LAN, if the packet is unassociated with any traffic managers, another traffic manager is not selected. Also, in the combination of Albert and Datta, in the load-balancing determination as to which server to route to, there is no selection of another traffic manager based on whether or not each packet in a flow of packet is unassociated with a traffic manager. In Albert, a load-balancing determination is made as to which server to route to. Accordingly, in the combination of Albert and Datta, there is no processor that performs, "if each received packet in the flow of packets is unassociated with the traffic manager, performing actions, including: (A) selecting another traffic manager; and (B) associating the other traffic manager with the flow of packets, wherein each received packet in the flow of packets is forwarded to the other traffic manager", as recited in Applicants' Claim 1.

For at least these reasons, it is respectfully submitted that Claim 1 is allowable, and notice to that effect is earnestly solicited. It is respectfully submitted that the 35 U.S.C. § 103 rejections to each of the other independent claims rejected under 35 U.S.C. § 103 (other than 33-42) should be withdrawn at least for the reasons stated above with regard to Claim 1. It is respectfully submitted that each of the rejections under 35 U.S.C. § 103 to a dependent claim (other than 33-42) should be withdrawn at least based on its dependence upon the independent claim from which it depends.

Rejections to Claims 33-42 under 35 U.S.C. § 103

Claims 33-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Albert et al (U.S. Patent No. 6,742,045), in view of Hong et al (U.S. Publication No. 2002/0062372) hereafter "Hong". Each of these rejections is respectfully traversed.

Claim 33 is respectfully submitted to be allowable at least because the proposed combination of Albert and Hong would not meet all of the claim recitations of Claim 33.

The Office states that Albert may be used to teach several of the initial claim recitations, with Hong teaching the recitations involving the partial server-side connection keys, as discussed at paragraphs [0062] and [0063] of Hong. However, Hong discusses an architecture in which traffic is destined for a global IP address which contains a number of replicated servers. (See, inter alia, paragraph [0004] of Hong). In contrast, Albert discusses traffic management using affinity keys, based, among other things, on the destination IP address. (See col. 7, lines 26-61 of Albert). Accordingly, if the combination were used in the context of Albert, there would be separate destination IP addressing, and the content director functioning discussed at paragraphs [0062] and [0063] of Hong would not be employed in such a way as to meet the recitations of Claim 33 involving partial server-side connection keys. However, if the combination were used in the context of Hong, there would be a global IP address, and the fixed affinities of Albert would not be used, and accordingly the earlier recitations of Claim 33 would not be met by the combination.

Applicants made this argument in a previous paper. However, the Office has not yet addressed this argument. The Office states with regard to Applicants' statement that the combined system of Albert and Hong fails to teach or suggest the recitations involving partial server-side

connections, that the Office disagrees with this statement, and restates how it believes various components of Albert and Hong read on the various claim recitations, but the Office has not responded to the argument that the combination fails to meet these recitations of Claim 33 because if the combination involved global IP address which contains a number of replicated servers, as taught in Hong, the fixed affinities of Albert would not be used by the combination, or if instead the combination did not involve global IP address which contains a number of replicated servers as discussed in Hong, but rather used traffic management using affinity keys based, among other things, on the destination IP address, there would be separate destination IP addressing, and the content director functioning discussed at paragraphs [0062] and [0063] of Hong would not be employed in such a way as to meet the recitations of Claim 33 involving partial server-side connection keys. Accordingly, the combination fails to meet all of the recitations of Claim 33, and notice to that effect is earnestly solicited.

For at least these reasons, it is respectfully submitted that Claim 33 is allowable, and notice to that effect is earnestly solicited. Claim 36 is respectfully submitted to be allowable at least for reasons similar to those stated above with regard to Claim 33. Claims 34 and 35 are respectfully submitted to be allowable at least because they depend from Claim 33. Claims 37-42 are respectfully submitted to be allowable at least because they depend from Claim 36.

CONCLUSION

It is respectfully submitted that each of the presently pending claims (Claims 1-22, 26-42, 47-48, and 52-73) is in condition for allowance and notification to that effect is requested. Examiner is invited to contact the Applicants' representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby. Although only certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentable. Applicants reserve the right to raise these arguments in the future.

Applicant believes that no other fees are required for this Amendment. However, should any additional fees be necessary in connection with the filing of this Response, the Commissioner is hereby authorized and requested to charge Deposit Account No. 50-0320 for any such fees.

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Respectfully submitted,

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